

# TOWN OF ORLEANS – BOARD OF HEALTH

ORLEANS TOWN CLERK

## MINUTES OF MEETING

April 19, 2012

16 April 2012  
12 MAY 3 4:15 PM

The Board of Health convened its meeting at 2:00 p.m. on Thursday, April 19, 2012 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Job Taylor, III, Vice Chair Augusta McKusick, Jan Schneider, M.D., Robin Davis, Ph.D., and Elizabeth Suraci. Also present: Health Agent Robert Canning and Selectmen Liaison Susan Christie.

### **Agenda Item 1 – Public Hearing – Board of Health Fees 2012**

Attorney Taylor opened the public hearing for the purpose of accepting comments and to consider adoption of two new fees. This hearing was advertised in the Cape Codder published on April 13, 2012, and copies of the proposed Orleans Board of Health Fee Schedule were available during the hearing. He explained how the public hearing would be conducted.

Mr. Canning read the Legal Advertisement for this hearing and then presented a synopsis of the proposed Board of Health Fees 2012. He noted the two new proposed permits: Farmers' Market Retail Food License at \$25; and Wholesale Frozen Dessert Manufacturer License at \$50.

There was no public comment on the proposed Board of Health Fees 2012.

Attorney Taylor declared the public hearing closed and opened the subject for discussion by Board of Health members.

Dr. Schneider noted, for the record, that all of the fees, and particularly the two newly proposed fees, had been actively reviewed and discussed at a previous meeting. It was also noted that Mrs. Norgeot and other members of the Farmers' Market have been extremely helpful working with the Board, and Mrs. Suraci has successfully coordinated establishing the new Farmers' Market Policy.

**On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to amend the Fee Schedule as previously discussed. The vote was 5-0-0.**

Mr. Canning announced that the Board of Health Fees 2012 would be effective upon publication.

### **Agenda Item 2 – Public or Press**

There was no one present for Public or Press.

### **Agenda Item 4 – Discussion/Approval – Orleans Farmers' Market**

Mrs. Gretel Norgeot was present at this hearing.

Mr. Canning explained that this meeting would serve as the annual meeting to review the operation of the Orleans Farmers' Market. He read from the new Board of Health Farmers' Market Policy that: *The Board and the Farmers' Market Responsible Person shall review the Market's dates, time, and location of operation; their vendors and associated food products. The Board members would use this meeting to review the products and ascertain that they meet the definition of a whole farm food product; that being fresh produce, unprocessed honey, maple syrup, or farm fresh eggs. The Board should also review other products to ascertain if a Farmers' Market Retail Food Product Permit or other permits are required. The Board should assess the facilities available to the Market and they should review the procedures set forth to assure that all food product being offered is being done safely, and review requests for variances from the State and Federal Food Codes.*

Mr. Canning also noted that the Orleans Farmers' Market has proposed a limited schedule to be open on Wednesdays from 3:00 p.m. to 7:00 p.m. from July 7 through September 1, 2012 in addition to its normal schedule of Saturdays from 8:00 a.m. to 12:00 noon from May 12 through November 17, 2012. If the Board

approves of the additional Wednesday hours, and requires a Farmers Market Retail Food Permit, Mr. Canning informed them of the need for variances to the physical facility for floors, walls, and ceilings; the use of off-site hand-washing facilities (Hot Chocolate Sparrow); and that they adopt the 2012 Board of Health Conditions for Farmers' Market Food Vendors. At this point Mr. Canning distributed a copy of the 2012 Board of Health Conditions for Farmers' Market Food Vendors to each Board member. (*Exhibit 4-1*)

Attorney Taylor inquired of Mrs. Norgeot whether the Orleans Farmers' Market had ever held afternoon markets in the past. Mrs. Norgeot responded that it had been tried unsuccessfully in the past but they plan to expand their advertising to make the Wednesday afternoon market more successful. She informed the Board that she expects to add more vendors to the list included in her April 17, 2012 proposal.

**On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted to approve the Orleans Farmers' Market proposal for the 2012 Orleans Farmers' Market as presented including the previously approved variances for the physical facilities and hand-washing facilities.**

Dr. Schneider inquired whether the help from the Hot Chocolate Sparrow was voluntary to which Mrs. Norgeot affirmed that it is. Dr. Schneider expressed appreciation from the entire community for that accommodation. Mrs. Suraci questioned if the Farmers' Market was restricted in the number of vendors it could accommodate. Mrs. Norgeot explained that an additional area had been cleared of trees following a storm which now allows for expansion of the Market whenever they are ready to expand. In response to another inquiry, Mrs. Norgeot discussed parking issues.

**There being no further discussion, the vote was 5-0-0.**

Mr. Canning posed several questions of the Board of Health. Would the Board of Health allow the Health Department to approve food cooking demonstrations as long as no food product is offered to the public? Would the Board of Health allow the Health Department to approve vendors offering a whole food product without first obtaining approval from the Board of Health? Would the Board of Health allow the Health Department to approve Retail Food Permits for previously-approved vendors including any required variances? Health Department approval would be contingent on vendors meeting every step in the Farmers' Market Policy and prior review by Mrs. Norgeot. Any approvals could be ratified at a subsequent Board of Health Meeting.

**On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted on the suggestions previously made by Mr. Canning. The vote was 5-0-0.**

Mr. Canning inquired if the Board of Health would consider a waiver to the Farmers' Market Policy regarding service of iced tea and a vinnie (cider vinegar, honey, and water). Under the Farmers' Market Retail Food Permit, the product would be prepared in a licensed kitchen, transported and served in a product type dispenser. It would then be served individually in small cups which would fall under the Temporary Food Service Permit. Attorney Taylor opined that if the request is reviewed and approved by Mrs. Norgeot, and then approved by the Health Department, it would not be necessary to bring it to the Board of Health for further action. Mrs. McKusick suggested that the product be classified as non-alcoholic in nature to include other possible drinks.

Mrs. Norgeot inquired about the difference in the fees for a Temporary Food Service Permit and a Retail Food Permit. Mr. Canning explained that a Temporary Food Service Permit is for fourteen days. He also inquired about whether an iced cream vendor is a Mobile Food Vendor bringing a vehicle to the Market or if it is pre-packaged cups of iced cream brought to the Market in a cooler.

### **Agenda Item 3 – Discussion – 199 Main Street**

Mr. Bruce Bell, manager of Nauset Farms, a market located at 199 Main Street, was present for the hearing.

Mr. Canning reviewed the history of previous Board of Health meetings regarding Nauset Farms. In April 2011 the Board of Health granted relief from the State and Federal Food Codes for the requirement to have durable and easily-cleanable surfaces in the upstairs bakery, the former wine room, restroom facilities, storage area behind the cooler, and area outside the restrooms for the lobster steamer. During renovations they have completed the restroom facilities. The wine room has been converted to a full kitchen, and the upstairs bakery will continue to be a bakery except during the busy season when they would use that area for additional food preparation.

This area has always been maintained clean. The storage area behind the cooler has wood walls but has always been maintained clean. The area outside the restrooms for the lobster steamer also has exposed wood and has been clean during inspections. The walk-in freezer floor has been repaired. Nauset Farms requested that the Board of Health approve the operation of the market while the upstairs area, storage behind the cooler, and the area of the lobster steamer remain unchanged with exposed wood.

Board members discussed and Mr. Canning explained that food preparation will primarily take place in the new kitchen which is in full compliance with the Food Codes, using the upstairs area only when absolutely necessary. If there is any evidence of accumulated material during inspection, the owner will be required to bring the facility into full compliance with the Food Codes. Mr. Bell explained that every day the bakery is cleaned thoroughly. He also explained the daily, weekly, and monthly cleaning schedules.

**On a motion by Dr. Davis and seconded by Mrs. McKusick, the Board of Health voted to approve the variances to the physical facility, with the condition that should the exposed wood in the areas we are giving a variance to ever pose an issue in the future in terms of cleanliness, the owner would have to come into full compliance with the Code. The vote was 5-0-0.**

### **Agenda Item 5 – Approve Minutes**

The minutes of the Board of Health meeting held on April 5, 2012 had previously been distributed to Board members for review and approval.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to approve the minutes of the meeting held on April 5, 2012 as presented.**

Mrs. McKusick noted that having been absent from several meetings that having thorough and complete minutes has made it easy to catch up with the Board's activities, and she extended her appreciation to the Health Department and staff.

**The vote was 4-0-1.** Mrs. McKusick had not been present at the April 5, 2012 meeting.

### **Agenda Item 6 – Review Correspondence / Old and New Business**

6 – 1 – A Memo to File dated April 17, 2012 regarding DRCI – Notification of Materials Accumulation in Building had previously been distributed to Board members for review and discussion. Mr. Canning reported that this is the first issue since the Contingency Plan Agreement. DRCI had contacted the Health Department regarding issues with transportation of material from their facility and how they planned to rectify the situation. This was a very positive step.

6 – 2 – An email from Sherri Menslage, Office Manager at DRCI dated April 10, 2012 regarding a Protocol Update – Demo Transferring had previously been distributed to Board members for review and discussion. This had been discussed along with Item 6 – 1.

6 – 3 – A letter dated April 2, 2012 from GHD reported the Summary of Quarterly Gas Sampling Results at the Orleans Landfill had previously been distributed to Board members for review and discussion. Mr. Canning reported that the all methane readings were below reportable limits.

6 – 4 – A letter dated March 23, 2012 from A&K Engineering, Inc. reporting on the groundwater sampling conducted for Stop & Shop had previously been distributed to Board members for review and discussion. Mr. Canning noted that the readings have been consistent for many years.

6 – 5 – A letter dated April 13, 2012 to Paul S. Daniels regarding 61 Finlay Road had previously been distributed to Board members for review and discussion. This letter served as notice that a hearing has been scheduled for May 3, 2012 to determine what legal action is required to resolve the violation. Mr. Daniels has initiated the process of having the septic system inspected and submitted to the Health Department before the hearing date.

6 – 6 – A letter dated April 13, 2012 to Paul Deruyter TR regarding 15 Rayber Road had previously been distributed to Board members for review and discussion. This letter served as notice that a hearing has been sched-

uled for May 3, 2012 to determine what legal action is required to resolve the violation. To date here had been no response from Mr. Deruyter.

6 – 7 – A Grant of Bedroom Count Deed Restriction for 19 and 15 Nauset Farms Road owned by Robert and Marilyn Morley had previously been distributed to Board members for review and discussion. Mr. Canning explained that the Board of Health had granted a variance to the owner allowing addition of a bedroom to the dwelling conditioned upon registration of a deed restriction on both lots that combined both lots could have no more than four bedrooms. Mr. Morley was present at this discussion.

6 – 8 – The March 8, 2012 Meeting Minutes of the Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting had previously been distributed to Board members for review and discussion.

6 – 9 – A letter to David A. Quincy, Commodore of the Namequoit Sailing Association regarding its Junior Sailing Program had previously been distributed to Board members for review and discussion.

6 – 10 – A letter from Paul A. Lothrop reporting on the fluid level of the leach pit at 30 Viking Road had previously been distributed to Board members for review and discussion.

## **Agenda Item 7 – Health Agent’s Report**

### ***Licensing/Permits***

#### **Hole In One**

Mr. Canning reported that management at the Hole In One had requested a Temporary Food Permit for a one-day event at Paws for Celebration to be held on May 6, 2012 at the Nauset Regional Middle School. Potentially-hazardous food items will be served requiring a variance. They would have access to sanitary facilities and there will be no bare hand contact with ready-to-eat food. The food will be prepared at the Hole In One and brought to the site.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of the Hole In One to grant them a Variance and a Temporary Food Permit for the Paws for Celebration to be held on May 6, 2012 at the Nauset Regional Middle School. The vote was 5-0-0.**

#### **Universal Lodge Building Association, Inc.**

Mr. Canning reported that management at the Universal Lodge Building Association, Inc. had requested a Retail Food Establishment License to allow them to open a food pantry to assist families in need. They are already licensed as a Food Establishment for the preparation of food.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of the Universal Lodge Building Association, Inc. to grant them a Retail Food Establishment License. The vote was 5-0-0.**

#### **Farmers’ Market Licenses**

Mr. Canning requested that the Board grant the Farmers’ Market a Certificate of Registration based on the prior discussion of Agenda Item 4. The Orleans Farmers’ Market Policy requires the Farmers’ Market to obtain a Certificate of Registration from the Board of Health to sell whole food farm products.

**On a motion by Mrs. Suraci and seconded by Attorney Taylor, the Board of Health voted to issue a Certificate of Registration to the Orleans Farmers’ Market. The vote was 5-0-0.**

Mr. Canning requested that the Board grant a Farmers’ Market Retail Food Permit to the vendors listed in the April 17, 2012 Orleans Farmers’ Market proposal for the 2012 Orleans Farmers’ Market for baked goods.

**On a motion by Mrs. Suraci and seconded by Attorney Taylor, the Board of Health voted to grant the Farmers’ Market Retail Food Permit to the vendors listed in the April 17, 2012 Orleans Farmers’ Market proposal for the 2012 Orleans Farmers’ Market for baked goods; conditioned upon the Health Department receiving a complete application from those vendors. The vote was 5-0-0.**



Board members discussed a summer meeting schedule as two meetings in June and one in July. This would be discussed further at the next meeting on May 3, 2012.

Mrs. McKusick encouraged anyone interested in the wastewater treatment controversy to watch the Weston & Sampson - Technical Review & Cost Analysis of CWMP Options during the April 18, 2012 Board of Selectmen meeting on the Orleans website. She discussed the need to understand the current use of residential cesspools, 1000 gallon septic tanks, and 1500 gallon septic tanks. This information could affect the projected cost of the STEP program.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to request that the Health Agent use anybody on his staff to help him and to set this in motion, absent Mrs. McKusick. She will not be permitted to be on it because it's just going to stir the water. The vote was 5-0-0.**


Mr. Canning suggested that he would obtain a list of properties involved in Phase 1 of the original CWMP, and then research the individual street files. He will also include the total flow for each property to determine if the septic tank meets the 200 percent capacity requirement.

Mrs. Christi reported on a question following the Weston & Sampson presentation that if an owner is able to keep their current septic tank, it would need to be retrofitted for the STEP system. The integrity of an older septic tank after it has been retrofitted was the reason behind including the cost of a new septic tank for the STEP system. Mrs. McKusick expressed concern whether maintenance of the septic tank and grinder on each homeowner property would be the responsibility of the homeowner or the sewer commission.

#### **Agenda Item 8 – Adjournment**

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting at 2:51 p.m. The vote was 5-0-0.**

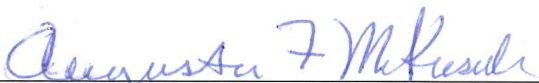
Respectfully submitted,

  
Lynda M. Burwell, Board Secretary

#### **ORLEANS BOARD OF HEALTH**

  
Attorney Job Taylor, III; Chairman

  
Jan Schneider, M.D.

  
Augusta F. McKusick, Vice Chairman

Robin K. Davis, Ph.D.

  
Elizabeth Suraci

  
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE April 19, 2012  
MEETING OF THE ORLEANS BOARD OF HEALTH**

**Agenda Item 1 – Public Hearing – Board of Health Fees 2012**

- 1 – 1 – Board of Health Fees 2012
- 1 – 2 – Excerpt of 105 CMR: Department of Public Health §561.021: Licenses
- 1 – 3 – Excerpts from Orleans Board of Health Farmers' Market Policy
- 1 – 4 – Legal Advertisement dated April 6, 2012 for Public Hearing on April 19, 2012

**Agenda Item 3 – Discussion – 199 Main Street – Nauset Farms**

- 3 – 1 – Request for discussion dated April 13, 2012, April 27, 2011 OHD letter, Excerpt from OBOH Minutes April 7, 2011
- 3 – 2 – OHD memo to OBOH dated April 17, 2012

**Agenda Item 4 – Discussion/Approval – Orleans Farmers' Market**

- 4 – 1 – Letter from Gretel Norgeot submitting Orleans Farmers' Market Proposal 2012
- 4 – 2 – Excerpts from Orleans Board of Health Farmers' Market Policy
- Exhibit 4-1 – 2012 Board of Health Conditions for Farmers' Market Food Vendors

**Agenda Item 5 – Approve Minutes**

- 5 – 1 – OBOH Minutes of Meeting held on April 5, 2012

**Agenda Item 6 – Review Correspondence and Old/New Business**

- 6 – 1 – OHD Memo to File dated April 17, 2012 Re: DRCI
- 6 – 2 – Email from Sherri Menslage dated April 10, 2012 Re: Protocol Update – Demo Transferring
- 6 – 3 – Letter from GHD dated April 2, 2012 reporting on the Summary of Quarterly Gas Sampling Results
- 6 – 4 – Letter from A&K Engineering dated March 23, 2012 re: Groundwater Sampling at Stop & Shop
- 6 – 5 – OHD letter to Paul Daniels dated April 13, 2012 re: 61 Finlay Road
- 6 – 6 – OHD letter to Paul Deruyter TR dated April 13, 2012 re: 15 Rayber Road
- 6 – 7 – Grant of Bedroom Count Deed Restriction for 15 and 19 Nauset Farms Way
- 6 – 8 – Minutes of the Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting of March 8, 2012
- 6 – 9 – OBOH letter dated March 29, 2012 to David A. Quincy, Commodore of Namequoit Sailing Association
- 6 – 10 – Letter from Paul B. Lothrop dated March 27, 2012 re: 30 Viking Road

**Agenda Item 7 – Health Agent's Report**

April 19, 2012  
Public Hearing  
Fees

Sign In Sheet

Name

Susan Christie  
Jill Rogert

Affiliation

BOS  
Orleans Farmers Mkt.